

Patent US 210D1
Edwards Ref: RMI-5707 CIP4CON5DIV
(formerly 269/089)

REMARKS

Applicants thank the examiner for taking the time on September 23, 2005, to discuss the pending rejections with John Kappos and Diane Wong. As discussed, claim 14 has been amended to specify that the filter is mounted on the distal end of an elongate member. Reconsideration of the rejections set forth in the Final Office Action mailed June 29, 2005, is respectfully requested. Claims 14 and 16 have been amended. Claims 1-13 have been canceled without prejudice to their prosecution in a subsequent application. Support for these amendments can be found in the specification at, e.g., Figs. 1-4. Therefore, these amendments have been made without the addition of new matter. Claims 14-22 remain pending in this case.

Continued Examination Under 37 C.F.R. § 1.114

Applicants note that this is the first Office Action following the Request for Continued Examination that was filed on May 23, 2005. Additionally, applicants note that the previous arguments made with respect to the Middleman reference were considered and found persuasive and that the Ginsburg reference is newly cited art by the examiner. Therefore, applicants respectfully request withdrawal of the finality of the Office Action mailed on June 29, 2005.

Art Rejections

Claims 1-22 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Ginsburg (U.S. Patent No. 4,873,978).

With respect to claim 14, applicants respectfully assert that Ginsburg does not teach or suggest a filter "*mounted on the distal end of the elongate member, the filter having an apex and an opening, wherein the apex of the filter is distal the opening.*" (emphasis added) As seen in

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Figs. 1-4 of Ginsburg, the apex of the filter is proximal relative to the filter opening. Therefore, claim 14 is patentably distinct from the cited art. Claims 15-22 depend from claim 14, and therefore are patentably distinct for the same reasons cited above.

FEEES DUE TO FILE THIS AMENDMENT

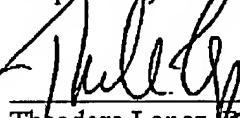
Prior to the pending Office Action, a fee was paid for the original 22 claims, with 3 of them being an independent claim. The aforementioned claim additions and cancellations have not resulted in more than the original number of claims, and thus no claim fees are believed to be due to file this amendment.

CONCLUSION

For the above reasons, pending Claims 1-22 are in condition for allowance and allowance of the application is hereby solicited. If the Examiner has any questions or concerns, a telephone call to the undersigned at 949-250-6856 is welcomed and encouraged.

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Respectfully submitted,



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